

REMARKS

A. Background

Claims 1-12 were pending in the application at the time of the Office Action. Claims 13-50 were cancelled in an earlier paper. The Office Action rejects claims 1-12 as being anticipated by or obvious over cited art. By this response Applicant has amended claims 1 and 3-9, and added claims 51-57. As such, claims 1-12 and 51-57 are presented for the Examiner's consideration in light of the following remarks.

B. Proposed Amendments

Applicant has amended the abstract to address a formal issue. Applicant has amended claims 1 and 3-9 to further clarify, more clearly define, and/or broaden the claimed inventions to expedite receiving a notice of allowance. For example, claim 1 now recites "each subcontainer having a biological specimen disposed within or on the subcontainer" and "collecting a plurality of image data from the biological specimen disposed within or on the sub-container." Other clarifying amendments have also been set forth herein. Applicant has also added new claims 51-53 which depend from claim 1 and new claims 54-57. The amendments to the claims are supported at least by Figures 3A-3B ; page 23, line 10 to page 24, line 2; and page 46, lines 12-20 in the specification. In view of the foregoing, Applicant respectfully submits that the amendments to the specification and claims do not introduce new matter and entry thereof is respectfully requested.

C. Specification Objection

Paragraph 2 of the Office Action objects to the abstract of the disclosure as containing more than 150 words. Applicant has herein amended the abstract to now contain less than 150 words. As such, Applicant submits that the rejection has been overcome and should be withdrawn.

D. Anticipation Rejection

Paragraph 3 of the Office Action rejects claims 1, 2, and 6-8 under 35 USC § 102(e) as being anticipated by U.S. Patent No. 6,415,048 to Schneider. Applicant respectfully traverses this rejection.

Schneider is directed to a method of data and image analysis that identifies specific portions of a data file containing an image and provides the capability to compare the portion of the file with other portions of the same image or another image. See abstract and col. 1, lines 19-24. To do this, Schneider discloses that “[t]he input data file is segmented or divided into a number of sub-files, each representing an identified portion of the input data file.” Col. 1, lines 58-60. Schneider defines the terms “file” and “sub-file” as “denot[ing] related sets of data” that may or may not be stored together. Col. 2, line 66 to col. 3, line 1. It is clear from Schneider that the terms “file” and “sub-file” refer to digital data files usable on a computer system. See, e.g., col. 3, lines 4-10 and col. 3, line 64 to col. 4, line 14. Thus, the data file and sub-files each comprise data residing on a computer, the data being a digital representation of an image or portion of an image.

The sub-files are compared with a reference file and a conclusion or diagnosis is determined based on the comparison. The conclusion is then communicated to the user. See

col. 1, lines 56-64. In describing how the image is obtained, Schneider uses as an example, PET, CAT, or MRI scans of a person's brain (see, e.g., Figure 5A or col. 5, lines 12-25).

In the rejection of claim 1, the Examiner states that "the claimed folder, subfolder are met by the data file and sub-file in the method of Schneider." Office Action at p. 3. However, contrary to the assertion of the Office Action, claim 1 does not recite, nor has it ever recited, a "folder" or a "subfolder." Applicant assumes, therefore, that the Examiner meant to equate the "data file" and "sub-file" of Schneider to the "container" and "sub-container" respectively recited in claim 1.

However, because the sub-file of Schneider is a digital data file containing only a digital representation of an image or portion of an image, Schneider does not disclose or suggest a step of "initializing a container using configuration information, the container having a plurality of subcontainers disposed therein or thereon, **each subcontainer having a biological specimen disposed within or on the subcontainer**," as recited in amended claim 1. Accordingly, Applicant respectfully requests that the anticipation rejection of claim 1 be withdrawn.

Claims 2 and 6-8 depend from claim 1 and thus incorporate the limitations thereof. As such, applicant submits that claims 2 and 6-8 are distinguished over the cited art for at least the same reasons as discussed above with regard to claim 1. Accordingly, Applicant respectfully requests that the anticipation rejection with regards to claims 2, and 6-8 also be withdrawn.

E. Obviousness Rejection

Paragraph 4 of the Office Action rejects claims 3-5 and 9-12 under 35 U.S.C. §103(a) as being obvious over Schneider. Claims 3-5 and 9-12 depend from claim 1 and thus incorporate the limitations thereof. As such, applicant submits that claims 3-5 and 9-12 are not obvious over the Schneider patent for at least the same reasons as discussed above with regard to claim 1.

Accordingly, applicant respectfully requests that the obviousness rejection with regard to claims Schneider be withdrawn.

No other objections or rejections are set forth in the Office Action.

F. New Claims

Applicant submits that new claims 51-57 are distinguished over the cited art of record. For example, claim 54 recites the step of “storing information about a container in a container database, the container having a plurality of subcontainers disposed therein or thereon, each subcontainer having a biological specimen disposed within or on the subcontainer.” As discussed previously, the cited art does not teach this limitation in conjunction with the other limitations of claim 54. Claims 55-57 depend from claim 54 and thus incorporate the limitations thereof.

Furthermore, claims 51-53 depend from independent claim 1 and are thus distinguished over the cited art for at least the same reasons discussed above regarding claim 1. Applicant submits that claims 51-53 are also independently distinguished over the cited prior art.

G. Conclusion

Applicant notes that this response does not discuss every reason why the claims of the present application are distinguished over the cited art. Most notably, applicant submits that many if not all of the rejected dependent claims are independently distinguishable over the cited art. Applicant has merely submitted those arguments which it considers sufficient to clearly distinguish the claims over the cited art.

In view of the foregoing, applicant respectfully requests the Examiner’s reconsideration and allowance of claims 1-12 and 51-57 as amended and presented herein.

In the event there remains any impediment to allowance of the claims which could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate such an interview with the undersigned.

Dated this 23rd day of July 2007.

Respectfully submitted,

/Dana L. Tangren/ Reg # 37246

DANA L. TANGREN

Registration No. 37,246

Attorneys for Applicant

Customer No. 022913

Telephone No. 801.533.9800

DLT:dfw

W:\16585\10.5.1\SW0000000295\001.doc